

February 2, 2006

Mr. John Tanner, Chief
Voting Section, Civil Rights Division
Room 7254-NWB.
U.S. Department of Justice
950 Pennsylvania Ave. N.W.
Washington, DC 20530

Mr. Tanner:

This letter is in response to your letter dated January 19, 2006 in which you request a response from Wyoming regarding our state's compliance with certain requirements of the federal Help America Vote Act (HAVA) of 2002 ("HAVA"), 42 U.S.C. 15301 *et seq.*

The State of Wyoming continues to proceed toward implementation of HAVA.

Section 301 – Voting Systems Standards

The Wyoming Secretary of State partnered with the Wyoming County Clerks Association. In addition, a Public Overview Committee was established by the Secretary of State to provide public input and public transparency to the equipment and voting system selection process. The Public Overview Committee had representation from the League of Women Voters, the media, County Commissioners Association, major political parties, senior citizens, the military, Protection and Advocacy Services, Inc.

In January 2005 all voting equipment vendors which had equipment certified by the National Association of State Election Directors (NASSED) were invited to a vendor fair at which they could display equipment and make a presentation. Five vendors chose to attend. All twenty-three county clerks were represented at the event. Following this event, all county clerks determined which vendor could best meet their county's needs. Twenty counties chose Election Systems & Services (ES&S) and three counties chose Diebold Inc. In the few months following their selection, the state followed up with each company gathering information for due diligence. The state also obtained feedback from those individuals who had served on the state's Voting System Overview Committee as well as the state's primary groups representing the disability community. The state contracted with both companies. The contract with ES&S was completed before the end of September and equipment was deployed and tested prior to January 1, 2006. The contract with Diebold was finalized and the equipment was delivered and tested prior to January 1, 2006. The twenty counties who selected ES&S equipment will use optical scan voting equipment and the AutoMark. The counties who chose Diebold will use optical scan equipment and the Diebold DRE. The ES&S AutoMark and the Diebold DRE will meet the accessibility requirements of Section 301(a)(3), and are ready to use for the first federal election to be held August 22, 2006.

The contracts with ES&S and Diebold for the voting systems also include provisions for training staff and poll workers, which will be completed prior to June 1, 2006. In addition, the voting system contracts require the voting system vendors to provide the state with the materials for education of the voting public.

Each of the twenty three counties received a memorandum of understanding which enabled the Secretary of State's Office to transfer title, warranties and maintenance agreements to the systems to the counties.

The contracts for the voting systems can be accessed on the Secretary of State's website at:
<http://soswy.state.wy.us/election/hava/systems.htm>

W.S. 22-14-114 describes what constitutes a vote in Wyoming. The statute reads:

22-14-114. Counting of ballots. For ballots designed to be counted by machine, each individual vote shall be determined by the voting equipment and shall not be determined subjectively by human tabulation except when the intent of the voter is unmistakable but the ballot was received in such damaged, soiled, or other condition that it is rejected by the machine. The secretary of state may promulgate rules establishing standards for counting such ballots. For ballots not designed to be counted by machine, only votes clearly marked, as provided by W.S. 22-14-104 and rules promulgated pursuant to this code, shall be tallied. For write-in votes, names which are misspelled or abbreviated or the use of nicknames of candidates shall be counted for the candidate if the vote is obvious to the board.

Section 303(a) – Computerized Statewide Voter Registration List

Wyoming, along with most other states, has been plowing through the long process of designing, developing, testing and soon deploying the statewide voter registration system. All of this came with the assistance of a voter registration work group, which consisted of county clerks, county election officials, technology staff and Secretary of State staff. Following demonstration from four vendors, and based on recommendations from Wyoming County Clerks, we chose a vendor in the fall of 2003, entered into contract negotiations and began design of a computerized, statewide voter registration and election management system in February 2004.

Wyoming's contract with Accenture is an end-to-end contract meaning that Accenture has purchased and installed equipment in all counties, will continue to provide training for all county and state users, will host the software and data base at a central location, will provide for a failover hosting site, will provide for all system security and will provide maintenance and help desk services through February 2009. All counties will use the same software. Data will be inputted at the county, but will not be housed at the county. Rather, the data will be immediately transmitted via secure encryption utilizing Citrix Metaframe client, via the Internet, to the central hosting site, or in case of an emergency to the failover hosting site. In order to perform the required HAVA checks, the statewide data base will interface with the Wyoming Department of Transportation, Divisions of Criminal Investigation, Board of Parole, and Department of Health Vital Records Division.

The vendor, Accenture e-Democracy Services, completed the on-site technical survey of all 23 counties. Designs for interfacing with the Department of Transportation, Division of Vital Records, Division of Criminal Investigation and the Board of Parole are complete. The design and programming for conversion of county voter registration and election management information is nearly complete. Purchasing and configuration of hosting site equipment is complete and ready for the software to be deployed in the 23 counties in Wyoming. Upon completion and configuration of the software package, intensive testing of the product was done and roll out schedules were finalized.

Wyoming chose to deploy the statewide system in two phases. The plan was to begin training for the Phase 1 counties the week of September 12th. However, in consultation with the county clerks, the Secretary of State's Office made the decision to hold off on training until the program was more polished. Although all of us who were working on this project would have loved to have it behind us, we were committed to not dropping a system on the counties until it was reasonably ready to go, knowing also that there will be continued upgrades over the life of the product, as is true of all systems, and until county personnel receives adequate training to operate the system.

Obviously, by holding off on rollout, all counties did not go live on the system by January 1st. The Secretary of State has addressed the Department of Justice regarding this issue, and chose not to force a system on the counties before it was appropriate to do so.

The counties in Phase 1 have been trained and continue to practice in the practice environment until they are scheduled to "Go Live" February 13th. The counties in Phase 2 are scheduled for training on the system beginning February 9th with a "Go Live" date of March 13th. The plan is for the whole state to be on the system and using the system completely by the first of April 2006. However, final acceptance and "Go Live" decisions are contingent upon completion of training within a reasonable time prior to the 2006 elections. The voter registration workgroup, Secretary of State's Office and Accenture continue to work in partnership on this project.

The contract with Accenture e-Democracy Services can be accessed on the Secretary of State's website at: <http://soswy.state.wy.us/election/hava/wyo-reg.htm>

Additional aspects of Wyoming's HAVA progress: Wyoming initially received \$100,000 Health and Human Services, Election Assistance for Individuals with Disabilities (HHS-EAID) funds. All of the projects funded with those funds are complete. The state has now been approved for the third allotment of \$100,000. Applications for those funds are available and projects funded with "Round 3" monies are anticipated to be underway by spring, completed by summer 2006.

Although not a required part of a state's HAVA plan, Wyoming chose to address the issue of universal access to voting. As stated in the original plan, "The State of Wyoming values the participation of its citizens in the election process. Therefore, Wyoming commits to assuring that all citizens, including those with disabilities, can fully participate in the election process by casting their ballots confidentially and independently." Wyoming Protection & Advocacy System, Inc. (P&A) and the Governor's Council on Development Disabilities have been helpful in assisting the state in this regard.

Requirements Payments and Fund Management: Wyoming was a “minimum funded” state under HAVA and therefore was scheduled to receive \$20 million in federal Title I and Title II funds. To date, Wyoming has received approximately \$16.6 million. The State of Wyoming appropriated the full state match of \$750,000 in anticipation of receipt of the federal dollars. To date, approximately \$580,000 has been used to match the federal funds received.

Wyoming has obligated \$8.8 million for the contract for a statewide voter registration system and contracted with the two companies for voting systems for the twenty three Wyoming counties, for a cost of \$6.3 million.

As we anticipated and stated in the original plan, and is still true today, “Implementation of such an enormous project will evolve over time; we must address the far-reaching ramifications detail-by-detail and decision-by-decision. Full implementation of the vision will take shape day by day.”

Sincerely,

Joseph B. Meyer
Wyoming Secretary of State

JBW/pln

cc: Pat Crank, Attorney General